

Message Text

UNCLASSIFIED

PAGE 01 STATE 068633
ORIGIN EUR-12

INFO OCT-01 ISO-00 JUSE-00 CIAE-00 COME-00 DODE-00
DOTE-00 EB-08 FMC-02 INR-07 NSAE-00 CG-00 DLOS-09
OES-06 SS-15 NSC-05 SP-02 L-03 H-02 EPA-04 INT-05
TRSE-00 OMB-01 IO-13 SSO-00 NSCE-00 USIE-00
INRE-00 PA-02 PRS-01 /098 R

DRAFTED BY EUR/CAN:KKJONIETZ:ED
APPROVED BY EUR/CAN:JHROUSE, JR.
L/OES:JBAILLY (SUBS)
-----282336Z 015274 /75
O 282214Z MAR 77
FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA IMMEDIATE

UNCLAS STATE 068633

E.O. 11652: N/A

TAGS: SENV, CA

SUBJECT: OIL SPILL COMPENSATION BILL

--

1. FOLLOWING NEF/JONIETZ TELECONS, QUOTED BELOW IS THE
FOREIGN CLAIMS PORTION OF THE DRAFT BILL ENTITLED "COMPREH-
ENSIVE OIL POLLUTION AND COMPENSATION ACT OF 1977". FULL
TEXT OF THE BILL IS BEING FORWARDED VIA POUCH. IN DIS-
CUSSING THIS SUBJECT WITH THE GOC, EMBASSY IS REQUESTED
TO EMPHASIZE THAT THIS BILL IS CURRENTLY BEING MARKED UP
BY A NUMBER OF CONGRESSIONAL COMMITTEES AND THEREFORE
THE TEXT GIVEN BELOW MAY DIFFER FROM THAT WHICH MAY EVEN-
TUALLY BE PASSED BY CONGRESS.

2. BEGIN TEXT:
DAMAGES AND CLAIMANTS

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 068633

SEC. 103. (A) CLAIMS FOR DAMAGES FOR ECONOMIC LOSS, ARISING
OUT OF OR DIRECTLY RESULTING FROM OIL POLLUTION, MAY BE
ASSERTED FOR --

--(1) REMOVAL COSTS;
--(2) INJURY TO, OR DESTRUCTION OF , REAL OR PERSONAL PROPER-
TY;

--(3) LOSS OF USE OF REAL OR PERSONAL PROPERTY;

--(4) INJURY TO, OR DESTRUCTION OF, NATURAL RESOURCES;

--(5) LOSS OF USE OF NATURAL RESOURCES;

--(6) LOSS OF PROFITS OR IMPAIRMENT OF EARNING CAPACITY
DUE TO INJURY OR DESTRUCTION OF REAL OR PERSONAL PROPERTY
OR NATURAL RESOURCES; AND

--(7) LOSS OF TAX REVENUE FOR A PERIOD OF ONE YEAR DUE TO
INJURY TO REAL OR PERSONAL PROPERTY.

(B) A CLAIM AUTHORIZED BY SUBSECTION (A) MAY BE ASSERTED -

--(1) UNDER ITEM 2, BY ANY CLAIMANT: PROVIDED, THAT THE
OWNER OR OPERATOR OF A VESSEL OR FACILITY INVOLVED IN AN
INCIDENT MAY ASSERT SUCH A CLAIM ONLY IF HE CAN SHOW THAT
HE IS ENTITLED TO A DEFENSE TO LIABILITY UNDER SECTION
104(C)(1) OR, IF NOT ENTITLED TO SUCH A DEFENSE TO LIABIL-
ITY UNDER SECTION 104(B): PROVIDED FURTHER, THAT WHERE HE
IS NOT ENTITLED TO SUCH A DEFENSE TO LIABILITY BUT EN-
TITLED TO SUCH A LIMITATION OF LIABILITY, SUCH CLAIM MAY
BE ASSERTED ONLY AS TO THE REMOVAL COSTS INCURRED IN EXCESS
OF THAT LIMITATION;

--(2) UNDER ITEMS 2,3,5, AND 6 BY ANY UNITED STATES CLAIM-
ANT, IF THE PROPERTY INVOLVED IS OWNED OR LEASED, OR THE
NATURAL RESOURCES INVOLVED WERE LAWFULLY AND DIRECTLY
USED BY THE CLAIMANT IN THE ORDINARY COURSE OF HIS BUSINESS;

--(3) UNDER ITEM 4, BY THE PRESIDENT, AS TRUSTEE FOR
NATURAL RESOURCES OVER WHICH THE UNITED STATES GOVERNMENT
HAS SOVEREIGN RIGHTS OR EXERCISES EXCLUSIVE MANAGEMENT
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 STATE 068633

AUTHORITY OR BY ANY STATE FOR NATURAL RESOURCES WITHIN THE
BOUNDARY OF THE STATE BELONGING TO, MANAGED, CONTROLLED BY,
OR APPERTAINING TO THE STATE; PROVIDED THAT COMPENSATION
PAID UNDER THIS ITEM SHALL BE USED ONLY FOR RESTORATION OF
THE NATURAL RESOURCES DAMAGED OR FOR ACQUISITION OF
EQUIVALENT RESOURCES;

--(4) UNDER ITEM 6, BY ANY UNITED STATES CLAIMANT WHO DOES
NOT QUALIFY UNDER CLAUSE (2) OF THIS SUBSECTION IF THE
CLAIMANT DERIVES AT LEAST TWENTY-FIVE PER CENTUM OF
HIS EARNINGS FROM ACTIVITIES WHICH UTILIZE THE PROPERTY OR
NATURAL RESOURCE;

--(5) UNDER ITEM 7, BY ANY STATE OR POLITICAL SUBDIVISION
THEREOF;

--(6) UNDER ITEMS 2 THROUGH 7, BY A FOREIGN CLAIMANT TO
THE SAME EXTENT THAT A UNITED STATES CLAIMANT MAY ASSERT
A CLAIM, IF -

----- (A) THE CLAIMANT IS NOT OTHERWISE COMPENSATED FOR
THE DAMAGES;

---(B) THE OIL WAS DISCHARGED FROM A FACILITY OR FROM A VESSEL OR SHIP LOCATED WITHIN THE NAVIGABLE WATERS OR WAS DISCHARGED IN CONNECTION WITH ACTIVITIES CONDUCTED

UNDER THE OUTER CONTINENTAL SHELF LANDS ACT, AS AMENDED, 43 U.S.C. 1331 ET SEQ. OR THE DEEPWATER PORT ACT OF 1974, AS AMENDED BY THIS ACT, 33 U.S.C. 150L ET SEQ; AND

----(C) RECOVERY IS AUTHORIZED BY A TREATY OR AN EXECUTIVE AGREEMENT BETWEEN THE UNITED STATES AND THE FOREIGN COUNTRY IN WHICH THE POLLUTION OCCURRED, OR IF THE POLLUTION OCCURRED OUT OF THE TERRITORY OF ANY NATION, THE FOREIGN COUNTRY OF WHICH THE CLAIMANT IS A NATIONAL, OR IF THE SECRETARY OF STATE, IN CONSULTATION WITH THE ATTORNEY GENERAL AND OTHER APPROPRIATE OFFICIALS, CERTIFIES THAT SUCH COUNTRY PROVIDES COMPARABLE REMEDY FOR UNITED STATES CLAIMANTS: PROVIDED, HOWEVER, THAT CONDITIONS (B) AND (C) SHALL NOT APPLY WHERE THE CLAIM IS ASSERTED BY A UNCLASSIFIED

UNCLASSIFIED

PAGE 04 STATE 068633

RESIDENT OF CANADA AND WHERE THE OIL POLLUTION INVOLVES OIL THAT HAS BEEN TRANSPORTED THROUGH THE PIPELINE AUTHORIZED UNDER THE TRANS-ALASKA PIPELINE AUTHORIZATION ACT, AS AMENDED, AND HAS BEEN LOADED ON A SHIP FOR TRANSPORTATION TO A PORT UNDER THE JURISDICTION OF THE UNITED STATES AND IS DISCHARGED FROM THE SHIP PRIOR TO BEING BROUGHT ASHORE IN SUCH A PORT; AND

--(7) UNDER ANY ITEM, BY THE ATTORNEY GENERAL, ON HIS OWN MOTION OR AT THE REQUEST OF THE SECRETARY (OF TRANSPORTATION), ON BEHALF OF ANY GROUP OF THE UNITED STATES CLAIMANTS WHO MAY ASSERT A CLAIM UNDER THIS SUBSECTION, WHEN HE DETERMINES THAT THE CLAIMANTS WOULD BE MORE ADEQUATELY REPRESENTED AS A CLASS IN ASSERTING THEIR CLAIMS.

(C) IF THE ATTORNEY GENERAL FAILS TO TAKE ACTION UNDER CLAUSE (7) OF SUBSECTION (B) WITHIN SIXTY DAYS OF THE DATE ON WHICH THE SECRETARY (OF TRANSPORTATION) DESIGNATES A SOURCE UNDER SECTION 106, ANY MEMBER OF A GROUP MAY MAINTAIN A CLASS ACTION TO RECOVER DAMAGES ON BEHALF OF THAT GROUP. FAILURE OF THE ATTORNEY GENERAL TO TAKE ACTION SHALL HAVE NO BEARING ON ANY CLASS ACTION MAINTAINED BY ANY CLAIMANT, FOR DAMAGES AUTHORIZED BY THIS SECTION. END TEXT

3. FYI: THE EXECUTIVE BRANCH HAS, WE UNDERSTAND, NOT YET ESTABLISHED CRITERIA BY WHICH TO SPECIFICALLY EVALUATE WHETHER OR NOT FOREIGN COUNTRIES HAVE PROVIDED COMPARABLE REMEDIES FOR UNITED STATES CLAIMANTS, AS MENTIONED IN SECTION 103 PARA. (B)(6)(C). END FYI

CHRISTOPHER

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: WATER POLLUTION, POLICIES, OIL SPILLS, US CONGRESSIONAL HEARINGS, US CONGRESSIONAL DOCUMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 28-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE068633
Document Source: CORE
Document Unique ID: 00
Drafter: KKJONIETZ:ED
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770106-0595
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770314/aaaaamdh.tel
Line Count: 171
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8b5da1b0-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EUR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 06-Oct-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2973496
Secure: OPEN
Status: NATIVE
Subject: OIL SPILL COMPENSATION BILL --
TAGS: SENV, CA
To: OTTAWA
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/8b5da1b0-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009